

# SENATE BILL REPORT

## ESHB 2406

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As of February 19, 2014

**Title:** An act relating to administrative processes for managing deposits and cost reimbursements of the energy facility site evaluation council.

**Brief Description:** Modifying administrative processes for managing deposits and cost reimbursements of the energy facility site evaluation council.

**Sponsors:** House Committee on Technology & Economic Development (originally sponsored by Representatives Tarleton, Short, Ryu and Smith; by request of Utilities & Transportation Commission and Energy Facility Site Evaluation Council).

**Brief History:** Passed House: 2/12/14, 95-3.

**Committee Activity:** Energy, Environment & Telecommunications: 2/19/14.

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Staff:** William Bridges (786-7416)

**Background:** Energy Facility Site Evaluation Council (EFSEC). Created in 1970, EFSEC is the permitting and certificating authority for the siting of major energy facilities in Washington. An EFSEC site certification authorizes an applicant to construct and operate an energy facility in lieu of any other permit or document required by any other state agency or subdivision.

In 2010 the Legislature transferred the administration of EFSEC from the Department of Commerce to the Washington Utilities and Transportation Commission (UTC). The UTC provides all administrative and staff support for EFSEC. The UTC has supervisory authority over EFSEC's staff, but otherwise EFSEC retains its independence in exercising its powers, functions, and duties.

EFSEC Members. EFSEC is comprised of a chair appointed by the Governor, and representatives from five state agencies: the Departments of Commerce, Ecology, Fish and Wildlife, and Natural Resources, and the UTC. Four other departments may each choose to participate in EFSEC for a particular project: Agriculture, Health, Transportation, and Military. Finally, local governments must also appoint members to EFSEC for the review of proposed facilities located in their jurisdictions.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

EFSEC Jurisdiction. EFSEC's siting jurisdiction includes large energy facilities, such as thermal electric power plants with a generating capacity of 350 megawatts or greater. Energy facilities of any size that exclusively use alternative energy resources, such as wind power, can also opt into the EFSEC review and certification process.

EFSEC Site Certification Application and Monitoring Costs. The deposits and charges associated with application processing and certification monitoring by EFSEC are established in statute. Each applicant seeking energy facility site certification must pay reasonable costs as are actually and necessarily incurred by EFSEC in processing the application. A site certification application to EFSEC must be accompanied by a \$50,000 deposit. EFSEC may charge costs against the deposit, including, for example, independent consultants' costs, staff salaries, wages and benefits, goods and services, and travel expenses arising directly from processing an application.

A \$50,000 deposit is also required for each certificate holder in order to cover EFSEC's reasonable costs associated with inspections and determinations of compliance with the terms of certification. EFSEC may charge costs against the deposit in the same manner as is permitted for processing applications.

EFSEC must provide each applicant and certificate holder with a statement of expenditures for each calendar quarter. The applicant must provide payment in order to restore the deposit to the originally established level. An applicant is permitted to increase the amount of funds in the deposit to cover anticipated expenses during peak periods of application processing. Applicants and certificate holders must make all payments to the State Treasurer.

**Summary of Bill:** Modifying EFSEC's Requirements for Administering Deposits and Payments. Applicants and certificate holders must pay actual costs incurred by EFSEC and the UTC. The deposit amount is modified to be an amount up to \$50,000. In addition to the amount of the deposit, applicants and certificate holders must reimburse the UTC, on behalf of EFSEC, for actual expenditures that arise in considering the application or conducting inspections and determining compliance, including the cost of any independent consultant studies. Any unexpended portions of the deposit must be returned to the applicant within 60 days following the conclusion of the application process or to the certificate holder within 60 days after a determination that the certificate is no longer required.

EFSEC and the UTC must charge costs against the deposit if the applicant withdraws the application and has not reimbursed the UTC, on behalf of EFSEC, for all actual expenditures incurred. The same process applies for certificate holders that cease operations and fail to reimburse EFSEC for actual expenditures incurred in conducting inspections and determining compliance.

Applicants and certificate holders must make all payments to the UTC. The bill does not extend or modify the jurisdiction of EFSEC or the UTC with respect to any existing energy facility that is not subject to EFSEC or UTC jurisdiction as of the effective date of the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This joint-request bill from EFSEC and the UTC fixes statutory inconsistencies created when EFSEC was placed within the UTC a few years ago. It is a good administrative efficiency bill that ensures applicants and certificate holders do not pay more than they should and establishes reimbursement procedures.

**Persons Testifying:** PRO: Representative Tarleton, prime sponsor; Ann Rendahl, UTC; Bill Lynch, EFSEC, Chairman.